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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re:

Bed Bath & Beyond Inc., *et al.*,
Debtors.

Case No. 23-13359 (VFP)

Chapter 11

(Jointly Administered)

Hearing Date: May 16, 2023
Hearing Time: 2:00 p.m. (ET)

[Relates to Docket No. 25]

MARICOPA COUNTY TREASURER'S OBJECTION TO DEBTORS' MOTION FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POSTPETITION FINANCING AND (B) UTILIZE CASH COLLATERAL, (II) GRANTING LIENS AND SUPERPRIORITY ADMINISTRATIVE EXPENSE CLAIMS, (III) GRANTING ADEQUATE PROTECTION, (IV) MODIFYING THE AUTOMATIC STAY, (V) SCHEDULING A FINAL HEARING, AND (VI) GRANTING RELATED RELIEF

Maricopa County Treasurer ("MCT"), a secured tax lien creditor, by and through its undersigned counsel, hereby objects to the *Debtors' Motion for Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain PostPetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and SuperPriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, (V) Scheduling A Final*

1 *Hearing, And (VI) Granting Related Relief.* (DE 25) (the "Motion"). **MCT was not provided**
2 **notice of the Motion or the related final hearing.** MCT objects to the Motion for the
3 reasons set forth below.

4 **1. MCT's Claims:**

5 On May 11, 2023, MCT filed a Secured Tax Proof of Claim (the "MCT Claim") in
6 the case of Bed Bath & Beyond Inc. in the estimated amount of \$35,478.08 representing
7 the estimated 2023 personal property taxes on Debtors' property located in Maricopa
8 County, Arizona. Interest accrues, or will accrue, at the statutory rate of 16% per year
9 simple, if not timely paid, until paid in full. See 11 U.S.C. § 511 and Arizona Revised
10 Statutes ("A.R.S.") § 42-18053.

11 On May 11, 2023, MCT filed a Secured Tax Proof of Claim (the "MCT Claim") in
12 the case of Buy Buy Baby, Inc. in the estimated amount of \$4,947.83 representing the
13 estimated 2023 personal property taxes on Debtors' property located in Maricopa County,
14 Arizona. Interest accrues, or will accrue, at the statutory rate of 16% per year simple, if
15 not timely paid, until paid in full. See 11 U.S.C. § 511 and A.R.S. § 42-18053.

16 **2. Objection:**

17 MCT objects to the Motion to the extent that it seeks to prime MCT's tax liens on
18 Debtors' personal property located in Maricopa County, Arizona. Arizona law provides the
19 following.

- 20 a. The personal property tax liens attached on January 1 of the respective tax
21 year and the taxes are not discharged until the taxes and interest are paid in
22 full or title to the property vests in a purchaser of the property for taxes. A.R.S.
23 §§ 42-17153 and 42-19106. Accordingly, the liens for personal property taxes
24 encumbering the property cannot be removed until the personal property taxes

are paid in full.

b. The tax liens are "prior and superior to any other liens of every kind and description regardless of when another lien attached." A.R.S. § 42-17153 and 42-19106.

c. Interest accrues at the statutory rate of 16% per annum until the taxes are paid in full. 11 U.S.C. § 511 and A.R.S. § 42-18053.

WHEREFORE, MCT objects to the Motion to the extent that it seeks to prime any MCT tax liens.

RESPECTFULLY SUBMITTED this 11th day of May, 2023.

RACHEL H. MITCHELL
MARICOPA COUNTY ATTORNEY

BY: 
PETER MUTHIG
Deputy County Attorney
Attorney for Maricopa County Treasurer

ORIGINAL of the foregoing filed by overnight mail
this 11th day of May, 2023, with:

Clerk, United States Bankruptcy Court
District of New Jersey
MLK Jr Federal Building
50 Walnut Street
Newark, NJ 07102

COPY of the foregoing mailed/e-mailed,
this 11th day of May, 2023, to:

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Fran B. Steele
U.S. Department of Justice
Office of the US Trustee
One Newark Center, Suite 2100
Newark, NJ 07102-5504
Email: alexandria.nikolinos@usdoj.gov
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17 _____

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